



F-7058

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Makoto HIGASHIYAMA, et al.
Serial No. : 09/900,910
Filed : July 9, 2001
For : THREE-DIMENSIONAL IMAGE PROCESSING UNIT AND
COMPUTER READABLE RECORDING MEDIUM STORING
THREE-DIMENSIONAL IMAGE PROCESSING PROGRAM
Group Art Unit : 2671
Examiner : Adam Arnold

Certificate of Mailing Under 37 CFR 1.8

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Frank J. Jordan
(Name)

(Signature and Date)

12/23/03

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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JAN 07 2004

Technology Center 2600

RESPONSE

Sir:

This is in response to the Official Action dated July 17, 2003.

The Examiner rejected claims 1 to 13 on Morihira in view of Kitsutaka. Reconsideration is respectfully requested. The cited reference to Kitsutaka is not considered to be an effective

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reference against this instant application.

In the 2002 amendments to the Patent Law Office (which added to the 1999 changes), 35 U.S.C. 102(e)(1) was revised to bar a claim to an invention made after the filing date of a published application (102(e)(1)) or filing date of a U.S. patent (102(e)(2)), with a condition as to both provisions, that an international application filed under the treaty defined in section 351(a) should have the effects for the purposes of 35 U.S.C. 102(e) of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Although Kitsutaka's PCT filing date (June 4, 2001) is earlier than the U.S. filing date (July 9, 2001) of the present invention, it is not believed that Kitsutaka can rely on a PCT filing date such as to be a 102(e) date against the present invention.

A PCT application filed on or after November 29, 2000 will be an effective prior art reference under 102(e) as of PCT filing date if both of the filing conditions was met:

- (a) PCT Application designating the U.S., and
- (b) it is published in the English language in the PCT stage.

There is no record that the corresponding PCT application of Kitsutaka was published in the English language.

In view the above, it is respectfully submitted that Kitsutaka cannot rely on its PCT filing date as its 102(e) date.

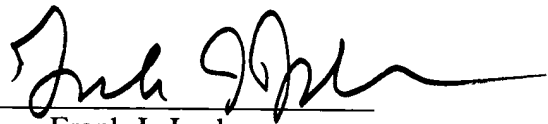
Since claims 1 to 13 were rejected on Morihira in view of Kitsutaka and in view of the fact that Kitsutaka is not an effective reference against this instant application as set forth hereinabove, it is respectfully submitted that the rejection of claims 1 to 13 as set forth in the Official Action is no longer effective and in view thereof, withdrawal of the rejection and allowance of the claims 1 to 13 are respectfully requested.

Applicant respectfully requests a third one-month extension of time. Please charge the fee of \$950.00 for the third one-month extension to Deposit Account 10-1250. If there are any additional charges, please charge to the same Deposit Account No.

Respectfully submitted,

Jordan and Hamburg LLP

By



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FJJ/cj